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5 HONORABLE ROBERT H. WHALEY

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8 **UNITED STATES DISTRICT COURT**
EASTERN DISTRICT OF WASHINGTON

9 PAMELA BENTLEY MILLER,
10 DANIEL MILLER, JG, RB, and
AM,

11 Plaintiffs,

12 v.

13 ANGELA NEWPORT, SAM
CAIN, KATHY BALAM,
WENDY PRATT, JERRY
PROLO, BILL WILLSON,
DEBORAH HARPER
KENNETH FELDMAN, JOHN
and JANE DOE 1-10,

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17 Defendants.

NO. CV-12-540-RHW
PROTECTIVE ORDER

18 THIS MATTER came before the court on Defendants' Motion for
19 Protective Order, and the court having considered the pleadings and
20 declarations filed herein, and being otherwise duly advised in the premises, now
21 therefore finds that in the course of discovery, documents and information
22 concerning private and confidential information about the parties or third

1 parties may be sought in this litigation. Such documents and information to be
2 provided or exchanged by the parties or non-parties and other discovery
3 (including oral depositions) may contain or refer to such information, or
4 material that may be privileged, confidential and personally sensitive.

5 F.R.C.P. 26(c) provides, under certain circumstances, for the issuance of
6 protective orders limiting the disclosure of commercial, confidential, or private
7 information. In order that the parties may obtain information in this case
8 relevant to the claim or defense of any party, it is necessary to make such
9 documents and information available to counsel of record and others while
10 protecting each party against unnecessary disclosure of confidential
11 information. The purposes of this Protective Order include the prevention of
12 unnecessary disclosure of such information and documents, while allowing the
13 parties to pursue discovery with a minimum of delay and expense.

14 **IT IS HEREBY ORDERED**, that Defendants' Motion for Protective
15 Order is **GRANTED**.

16 **IT IS ORDERED**, that consistent with RCW 13.34.110, 13.50.100,
17 26.33.330, 26.33.340, and 74.04.060, and 42 U.S.C. §5106a, the Department of
18 Social and Health Services' (DSHS) records and files and information contained
19 therein are confidential and privileged and that these files also contain documents
20 that are confidential or privileged under CFR 45.165 (HIPAA) and under RCW
21 10.97 and CFR 45.164.

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1 The following DSHS records are designated as relevant and discoverable in
2 this matter and also privileged and confidential. It is ordered that they be
3 produced in CR 26(a) disclosures to the parties in this litigation and that they shall
4 be subject to all the provisions in this protective order:

- 5 1) All file materials provided to Dr. Feldman by DSHS, and any and all
6 records and file materials created or maintained by Dr. Feldman in
7 the course of evaluating any of the plaintiffs.
8 2) Files maintained on the plaintiff's by DSHS, including Child and
9 Family Welfare System (CFWS) records, and Child Protective
10 Services (CPS) including the following:

DOCUMENT	DESCRIPTION
A	Child and Family Welfare Services file on Pamela Bentley, Volumes 1 through Volume 15 (0101 to 0115)
B	Grant County Courtesy Supervision file for Pamela Bentley, Volume 16 (0116)
C	Interstate Compact on the Placement of Children File re JG, RB, and AM move to Indiana, Volume 17 (0117)
D	Electronic records specifically related to JG (0124)
E	Electronic records specifically related to RB (0125)

1	F	Electronic records specifically related to AM (0126)
2	G	Linda Dexter, Home Study (0138)
3	H	Case Notes for Pamela Bentley Miller in chronological order (0140)
4	I	Case Notes from the DSHS database re Pamela Bentley (0142)
5	J	E-mails and Case Notes related to Pamela Bentley (0127)
6	K	DSHS Individual Service and Safety Plans related to Pamela Bentley (0128)
7	L	DSHS Letters, Social Service Payment System and Word Documents related to Pamela Bentley (0129)
8	M	DSHS database printouts re Pamela Bentley (0130)
9	N	DSHS database printout re Tort public records requests RB, JG, Miller (0131)
10	O	Anthony Bentley, Child Protective Services file (0132)
11	P	Algia Bentley, Home Study (0134)

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- 18 3) Any and all Court files relating to the plaintiffs including but not
19 limited to:
- 20 a) The custody or care of the minors;
- 21 b) divorce or custody proceedings in family court; or
- 22 c) any claims of abuse or requests for restraint or protection.

1 4) Additional records maintained by DSHS which the Court may order
 2 be produced:

DOC.	DESCRIPTION	SHALL BE PRODUCED IN DISCOVERY.		SHALL BE SUBJECT TO PROTECTIVE ORDER.	
		YES	NO	YES	NO
Q	Charles Jones, Children's Administration Case File, Volumes 1-5, Case #0446193 (0118 to 0122) (Charles Jones was a friend and acquaintance of Anthony Bentley)		X		
R	Charles Jones, DSHS database printouts, Case #0446193 (0123)		X		
S	Mary Susan Thuillard, DSHS database info. (0133) (Pamela Bentley's mother)		X		
T	Amanda Ramsdell, Home Study (0135) (Foster Parent)		X		
U	Debra Prater, (Pamela Bentley's sister) (0136)		X		
V	Debra and Ronald Miller, Home Study (0137)(Dan Miller's parents)		X		
W	Julie Schoonover,– Foster Home Licensing File (0139)		X		

20 DSHS shall redact social security numbers, contact information on foster
 21 parents, attorney-client privilege/work product documents, names of non-party
 22 minors, and identifying information on non-mandatory reporters of abuse.

1 IT IS HEREBY ORDERED That the contents and/or existence of the
2 aforementioned documents and files and any part thereof or therein shall not be
3 disclosed in any manner or form to any person and/or entities other than the
4 parties, parties' attorneys, experts retained by the parties' attorney(s), their staffs,
5 and individuals otherwise entitled to obtain said information pursuant to statutory
6 exemptions from confidentiality and other individuals as herein provided.

7 IT IS FURTHER ORDERED that the parties shall be allowed to use the
8 aforementioned documents or information in depositions of plaintiffs, defendants,
9 medical doctors, psychologists, nurses, counselors, health care providers, and
10 other persons named or identified in any of the aforementioned documents or in
11 consulting with any expert witnesses in this case, subject to the conditions set
12 forth in this Protective Order.

13 IT IS FURTHER ORDERED that the parties and counsel for the parties
14 shall use all documents and information produced or disclosed pursuant to this
15 Protective Order solely for the purpose of preparation for and trial of this action.
16 Under no circumstances shall information or materials covered by this Order be
17 disclosed to anyone other than as provided in this Order. Any deposition or other
18 testimony may be designated as "Confidential" by any party indicating on the
19 record that the testimony is "Confidential" and subject to the provisions of this
20 Order. Alternatively, the attorneys for a party need not designate specific
21 testimony as "Confidential" during the course of the deposition but may request
22 that the entire contents of the deposition shall be designated "Confidential" and

1 subject to the provisions of this Order. All deposition testimony designated as
2 “Confidential” by a party will be subject to this Protective Order. If a party
3 disputes the designation of “Confidential” at a deposition, the party shall have
4 thirty (30) days from the receipt of a copy of the official transcript to move the
5 court to lift the protective order from that designated deposition testimony. The
6 portions of the testimony so designated shall be subject to the provisions of this
7 Order unless the court orders otherwise.

8 IT IS FURTHER ORDERED that the documents subject to this protective
9 order will be filed with the court as confidential and for in camera review only in
10 all court proceedings prior to trial.

11 IT IS FURTHER ORDERED that prior to introducing the documents and
12 records subject to this protective order as evidence or otherwise disclosing to a
13 jury at trial, a hearing shall be held outside the presence of the jury wherein the
14 court will determine the admissibility and protection of the aforementioned
15 information or documents that shall occur during trial.

16 IT IS FURTHER ORDERED that at the conclusion of the proceedings in
17 this action, including any appeal, all documents and information subject to this
18 order, including any copies or summaries thereof, or documents containing
19 information taken therefrom, shall be returned to counsel for the party producing
20 such documents or destroyed by the party having such documents.

21 IT IS FURTHER ORDERED that a copy of this Order shall accompany
22 any copy of the discovery records or information protected by this Order that are

1 released to any parties' experts. No attorney or expert shall disclose any
2 information gained or derived from the aforementioned records to anyone without
3 further order of the court unless the person to whom the information is disclosed
4 is otherwise entitled to obtain said information pursuant to this Protective Order or
5 to statutory exemptions from confidentiality.

6 IT IS FURTHER ORDERED that this Protective Order shall remain in full
7 force and effect until such time as this Court modifies its terms or releases the
8 parties from its provisions.

9 DATED this 9th day of July, 2013.

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11 *s/Robert H. Whaley*
12 ROBERT H. WHALEY
13 Senior United States District Judge
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